

010.01-008 Licensing

A. General

1. All division action regarding licensure shall be governed by Ark. Code Ann. §§ 20-23-101 *et seq.*; these Rules and, when applicable, Ark. Code Ann §§25-15-208 to -213.

2. The division is responsible for licensure of boiler inspectors employed by insurance companies, Ark. Code Ann. § 20-23-402; boiler operators, Ark. Code Ann. § 20-23-404; and sellers, installers, and repairers of boilers, unfired pressure vessels, hot water storage containers and pressure piping, Ark. Code Ann. § 20-23-405.

B. Requirement to Keep Current Address on File

All persons holding a license or permit issued by the division are required to provide the division with information so that the division can remain in contact and provide notice of complaints and/or hearings. The licensee is required to provide written notice to the board of any change in business and/or residence address within ten (10) working days of the change. Service of notices of hearing sent by mail will be addressed to latest address on file with the division.

C. Review of Application

The application and supporting documentation will be reviewed by division staff. The division will inform the applicant in writing if it determines that the application is incomplete, and will specify why the application is incomplete. When a completed application, a supplemental application, or the requested information is returned, the agency will reinstate action on the application for license. If all requirements are met, a license will be issued or the applicant will be allowed to take the licensing examination, whichever is applicable.

D. Denial of License

1. If a preliminary determination is made that the application should be denied, the division will inform the applicant of the opportunity for a hearing on the application.

2. The grounds or basis for the proposed denial of a license will be set forth in writing by the division. Any hearing on the denial of a license will be conducted in accordance with A.C.A. § 25-15-208 and A.C.A. § 25-15-213, and unless otherwise provided by law, the applicant has the burden of establishing entitlement to the license.

E. Suspension, Revocation, Annulment or Withdrawal

1. Prior to the entry of a final order to suspend, revoke, annul, or withdraw a license, or to impose other sanctions upon a licensee, the division will serve the licensee a notice of hearing in the manner set out in A.C.A. § 25-15-208 and Rule 010.01.007(G).

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2. The division has the burden of proving the alleged facts and violations of law stated in the notice.

3. A license will not be renewed if there is an unpaid administrative fine. Further failure to pay an administrative fine may result in suspension or revocation of a license.

F. Emergency Action

1. If the division finds that the public health, safety, or welfare imperatively requires emergency action and incorporates that finding in its order, the division can summarily suspend, limit, or restrict a license. The notice requirement in 010.01.007(G) does not apply and must not be construed to prevent a hearing at the earliest time practicable.

2. Emergency Order:

An emergency adjudicative order must contain findings that the public health, safety, and welfare imperatively require emergency action to be taken by the division. The written order must include notification of the date on which division proceedings are scheduled for completion.

Written Notice. The written emergency adjudicative order will be immediately delivered to persons who are required to comply with the order. One or more of the following procedures will be used:

- a. Personal delivery;
- b. Certified mail, return receipt requested, to the last address on file with the division;
- c. First class mail to the last address on file with the division;
- d. Fax. Fax may be used as the sole method of delivery if the person required to comply with the order has filed a written request that division orders be sent by fax and has provided a fax number for that purpose.
- e. Oral notice. Unless the written emergency order is served by personal delivery on the same day that the order issues, the division shall make reasonable immediate efforts to contact by telephone the persons who are required to comply with the order.

3. Unless otherwise provided by law, within ten (10) days after emergency action taken pursuant to paragraph E1 of this rule, the division must initiate a formal suspension or revocation proceeding.

G. Voluntary Surrender of License

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The licensee, in lieu of formal disciplinary proceedings, may offer to surrender his or her license, subject to the division's determination to accept the proffered surrender, rather than conducting a formal disciplinary proceeding.

H. Duty of Sanctioned Licensee

In every case in which a license is revoked, suspended, or surrendered, the licensee shall, within thirty (30) days of the revocation, suspension, or surrender, do the following:

1. Return his or her license and any license pocket cards to the division's office;
2. Notify all of his or her clients or employer in writing that his or her license has been revoked, suspended, or surrendered;
3. Notify all clients or his or her employer to make arrangements for other services, calling attention to any urgency in seeking the substitution of another licensee;
4. Deliver to all clients or employer any papers or property to which they are entitled, or notify the client or employer of a suitable time and place where the papers and other property may be obtained, calling attention to any urgency for obtaining the papers or other property;
5. Refund any part of the fees paid in advance that have not been earned;
6. Keep and maintain a record of the steps taken to accomplish the foregoing;
7. File with the division a list of all other state, federal, and administrative jurisdictions by which he or she is licensed. Upon such filing, the division will notify those entitled of the revocation, suspension, or surrender; and
8. The sanctioned licensee shall, within thirty (30) days of revocation, suspension, or surrender of the license, file an affidavit with the agency that he or she has fully complied with the provisions of the order and completely performed the foregoing or provide a full explanation of the reasons for his or her non-compliance. Such affidavit shall also set forth the address where communications may thereafter be directed to the respondent.

I. Reinstatement After Suspension

1. An order suspending a license may provide that a person desiring reinstatement may file with the Director of the Department of Labor a verified petition requesting reinstatement.
2. The petition for reinstatement must set out the following:
 - a. That the individual has fully and promptly complied with the requirements of section 010.01.008(H) of these rules pertaining to the duty of a sanctioned licensee;

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b. That the individual has refrained from practicing in this occupation or business during the period of suspension;

c. That the individual's license fee is current or has been tendered to the division; and

d. That the individual has fully complied with any requirements imposed as conditions for reinstatement.

3. Any knowing misstatement of fact may constitute grounds for denial or revocation of reinstatement.

4. Failure to comply with the provisions of sections 101.01.008(H)7 and (H)8 of this Rule precludes consideration for reinstatement.

5. No individual will be reinstated unless the Director of Labor approves reinstatement upon a recommendation from the Boiler Advisory Board by a majority vote.

J. Re-Licensure for Revoked or Surrendered License and General Reinstatement

1. No individual who has had his or her license revoked or who has surrendered his or her license for an act of bad faith or a violation of law, rule or ethics will be licensed, except on petition made to the division. The application for re-licensure is not allowed until at least two (2) years after the revocation or surrender of license took effect.

a. The applicant bears the burden of proof that he or she is rehabilitated following the revocation or surrender of his or her license, that he or she can engage in the conduct authorized by the license without undue risk to the public health, safety, and welfare, and that he or she is otherwise qualified for the license pursuant to Ark. Code Ann. § 20-23-101 *et seq.*

b. The division may impose any appropriate conditions or limitations on a license to protect the public health, safety, and welfare.

c. The division may require that the person seeking re-licensure take the licensing examination if applicable.

2. Reinstatement

a. An individual may seek reinstatement under this subsection, Rule 010.01-008(J)(2), provided the applicant for reinstatement demonstrates that he or she:

i was previously licensed by the division at any time;

ii. was licensed in good standing at the time of licensing;

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iii did not have his or her license revoked for: an act of bad faith or a violation of law, rule or ethics; and

iv. is not holding a suspended or probationary license in this state or a sister state.

b. The Department of Labor's Code Enforcement Manager shall ensure that any application for reinstatement is handled in an expedited manner.

K. Sellers, Installers, and Repairers

1. All persons, firms, or corporations engaged in the sale or installation of boilers, unfired pressure vessels, hot water storage containers, or pressure piping or engaged in the repair of boilers or unfired pressure vessels shall be licensed by the division. Ark. Code Ann. § 20-23-405.

2. The annual license fee shall be seventy-five dollars (\$75) per year, payable in advance on or before January 31 of each calendar year.

3. Applicants for a license who are manufacturers shall have the appropriate ASME stamp as required in the ASME Codes adopted in Rule 010.01.012.

4. Applicants for a license that perform welded repairs shall possess the National Board "R" stamp or shall certify that they perform welded repairs only on vessels owned and operated by the applicant.

L. Inspectors

1. Inspectors of boilers employed by insurance companies insuring boilers in Arkansas, must have a certificate of competency and commission issued by the division. Ark. Code Ann. § 20-23-401.

2. The initial license fee shall be twenty-five dollars (\$25), and the renewal fee shall be fifteen (\$15) annually.

3. Applicants for a license must be employed by an insurance company and must have passed the written examination for boiler inspectors administered by the National Board of Boiler and Pressure Vessel Inspectors.

4. This Rule, 010.01.008(L), does not apply to boiler inspectors in the employ of the department.

M. Boiler Operators

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1. Boiler operators shall be licensed by the Boiler Inspection Division. Ark. Code Ann. § 20-23-404.

2. An applicant for a boiler operator's license shall:

a. have six (6) months of training under the supervision of a licensed boiler operator, which shall be confirmed by the applicant's employer and submitted to the division with the application; and

b. pass an examination administered by the division. Such examination may be in writing or may be administered orally. The applicant must score 70% for a passing grade on the examination.

3. An applicant shall pay an initial fee of twenty-five dollars (\$25) for examination and licensure. The license shall be renewed annually at a fee of seventeen dollars (\$17).

4. A restricted license may be issued to an applicant who has passed the examination, but does not have the requisite six (6) months of training. Such a restricted license shall authorize the license holder to work under the direction and supervision of a regularly licensed boiler operator and is effective for one (1) year from the date of issue. The fee for a restricted license shall be twenty-five dollars (\$25).

N. Restricted Lifetime Licenses, Ark. Code Ann. § 20-23-406

1. Boiler Inspectors

To qualify for a restricted lifetime boiler inspector's certificate of competency and commission, an applicant shall:

a. have been commissioned as a boiler inspector for no fewer than twelve (12) years;

b. be at least sixty-five (65) years of age; and

c. have a current boiler inspector commission issued by the Boiler Inspection Division.

2. Boiler Operators

To qualify for a restricted lifetime boiler operator's certificate of competency and commission, an applicant shall:

a. have been commissioned as a boiler operator for no fewer than twelve (12) years;

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- b. be at least sixty-five (65) years of age; and
- c. have a current boiler operator license issued by the Boiler Inspection

Division.

3. Installers, Sellers Or Repairers

To qualify for a restricted lifetime license as a boiler installer, seller or repairer, an applicant shall:

- a. have been licensed for no fewer than twelve (12) years;
- b. be at least sixty-five (65) years of age; and
- c. have a current license issued by the Boiler Inspection Division.

4. Application

a. An application for a restricted lifetime license shall be on a form approved by the division.

b. An applicant for any restricted lifetime license listed above must submit satisfactory proof of age which may include one of the following:

- (i) a birth certificate;
- (ii) a passport or certificate of arrival in the United States;
- (iii) a state-issued driver's license or identification card;
- (iv) any document issued by the U.S. Military which includes a photograph or information including name, sex, date of birth, and other identifying information; or
- (v) any other document of similar reliability acceptable to the division.

5. Restrictions

A person holding a restricted lifetime license must comply with Ark. Code Ann. §§ 20-23-101 *et seq.* and these Rules in the same manner and to the same extent as any regularly licensed individual.

6. Fees

Each applicant for a restricted lifetime license pursuant to this Rule shall pay a one time fee of fifty dollars (\$50.00).

O. ~~Active duty service members, returning military veterans, and spouses~~

~~1. As used in this rule, “returning military veteran” means a former member of the United States Armed Forces who was discharged from active duty under circumstances other than dishonorable.~~

~~2. Temporary license~~

~~a. An individual who is the holder in good standing of a substantially equivalent license in another state, shall be issued a temporary license of the same class while completing the application process for full licensure, provided the individual is one of the following:~~

~~i. an active duty military service member stationed in the State of Arkansas;~~

~~ii. a returning military veteran applying within one (1) year of his or her discharge from active duty; or~~

~~iii. the spouse of a person under Rule 010.01-008(O)(2)(a)(i) or (ii) above.~~

~~b. A temporary license under this rule shall expire on its face in thirty (30) days, although it is subject to renewal until a final administrative decision on full licensure is made.~~

~~c. If a full license is granted and the license fee paid, the license shall expire on the same date or in the same manner as other licenses of that class or type, regardless of the date of issue or renewal.~~

~~d. The Department of Labor’s Code Enforcement Manager shall ensure that any application for temporary licensure under Rule 010.01-008(O) is handled in an expedited manner.~~

~~e. When considering an application for full licensure of an active duty military service member stationed in the State of Arkansas or a returning military veteran applying within one (1) year of his or her discharge from active duty, the division shall:~~

~~(i) consider whether or not the applicant’s military training and experience is substantially similar to the experience required by Rule 010.01-008(K) through (M) for the class of license being sought; and~~

~~(ii) accept the applicant’s military training and experience in lieu of the experience required by Rule 010.01-008(K) through (M) if the Code Enforcement Manager or division, determines the military training and experience is a satisfactory substitute.~~

~~_____ f. _____ A license held by an active duty military service member deployed outside the State of Arkansas or his or her spouse shall not expire until one hundred eighty (180) days following the active duty military service member's or spouse's return from active deployment. The licensee must submit proof of deployment and deployment dates.~~

Automatic Licensure for Uniformed Service Members for Boiler Operator License

1. _____ As used in this subsection, a "uniformed service veteran" means a former member of the United States Uniformed Services discharged under circumstances other than dishonorable.

2. _____ The Boiler Inspection Section, Division of Labor, Department of Labor and Licensing shall grant automatic licensure to an individual who is the holder in good standing of a license with a similar scope of practice issued by another state, territory, or district of the U. S. and is:

a. _____ A uniformed service member stationed in the State of Arkansas;

b. _____ A uniformed service veteran who resides in or establishes residency in the State of Arkansas; or

c. _____ The spouse of:

i. _____ A person under 2(a) or (b) above;

ii. _____ A uniformed service member who is assigned a tour of duty that excludes the uniformed service member's spouse from accompanying the uniformed service member and the spouse relocates to this state; or

iii. _____ A uniformed service member who is killed or succumbs to his or her injuries or illness in the line of duty if the spouse establishes residency in the state.

3. _____ The division shall grant such automatic licensure upon receipt of all the below:

a. _____ Payment of the initial licensure fee;

b. _____ Evidence that the individual holds a license with a similar scope of practice in another state; and

c. _____ Evidence that the applicant is a qualified applicant under section 2 above.

4. _____ The expiration date of a license for a deployed uniform service member or spouse will be extended for one hundred and eight (180) days following the date of the uniformed service member's return from deployment.

5. _____ This subsection shall apply only to applicants for a license as a boiler operator.

P. Earn and Learn

1. The division shall grant a license to an individual applicant for a boiler operator's license who:

a. Completed an apprenticeship as a boiler operator in an apprenticeship program that meets the federal guidelines set out in 29 C.F.R. Part 29, as existing on March 1, 2021.

b. Passes the examination with the score required of all applicants;

c. Pays the licensing fee unless waived;

d. Does not have a disqualifying criminal record as determined by the division under state law; and

e. Completes all other requirements for licensure unrelated to training and education.

2. Should the division deny an application under subsection P.(1) above, the division shall provide the applicant with a written denial detailing the reason for the denial.

3. An apprenticeship for a boiler operator is not required to exceed the six (6) months required by subsection M. above, except as otherwise required by federal law.

Q. Initial License Fee Waiver

1. The division shall waive the initial license fee for an individual applicant if the applicant:

a. Is receiving assistance through the Arkansas Medicaid Program; the Supplemental Nutrition Assistance Program, the Special Supplemental Nutrition Program for Women, Infants, and Children, the Temporary Assistance for Needy Families Program; or the Lifeline Assistance Program;

b. Was approved for unemployment within the last twelve (12) months; or

c. Has an income that does not exceed two hundred percent (200%) of the federal poverty income guidelines.

R. Reciprocity

1. An applicant applying for reciprocal licensure shall meet the following requirements:

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a. Shall hold a substantially similar license in another United States jurisdiction. A license from another state is substantially similar to the license sought by the applicant if the other state's licensure qualifications require:

i. For sellers, installers, and repairers, the appropriate ASME Code stamp as required per Rule 010.01-08(K);

ii. For inspectors, employment by an insurance company and proof of successful passage of the examination for boiler inspectors administered by the National Board of Boiler and Pressure Vessel Inspectors; and

iii. For boiler operators, an examination requirement with an experience requirement of at least six (6) months.

b. Shall hold his or her license in good standing and shall provide a letter from the licensing authority attesting the disciplinary status of the applicant and show that he or she has not had a license revoked for:

i. an act of bad faith; or

ii. a violation of law, rule, or ethics.

c. Shall not hold a suspended or probationary license in a United States jurisdiction.

2. Required documentation: an applicant shall submit a fully-executed application, with the required fee, and the documentation described below:

a. As evidence that the applicants license from another jurisdiction is substantially-similar to Arkansas's, the applicant shall submit the following:

i. Evidence of current and active licensure in the sister state. The division may verify this information online, if the jurisdiction at issue provides primary source verification on its website, or by telephone to the sister state's licensing entity; and

ii. Evidence that the sister state's licensing requirements match those listed in Rule 010.01-008(R)(1)(a). The division may verify this information online or by telephone with the sister state's licensing entity.

b. To demonstrate that he or she meets the requirement in Rule 010.01-008(R)(1)(b), the applicant shall provide the division with:

i. The names of all states in which the applicant is currently or has been previously licensed;

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ii. Letters of good standing or other information from each state in which the applicant is currently or has ever been licensed showing that he or she has not had his or her license revoked for the reasons listed in Rule 010.01-008(R)(1)(b) and (c). The division may verify this information online or by telephone with the other state's licensing entity.

c. As evidence that the applicant is sufficiently competent, he or she shall:

i. If an applicant is seeking a license as a seller, installer or repairer, proof of the appropriate ASME Code stamp as required per Rule 010.01-08(K);

ii. If an applicant is seeking a license as an inspector, proof of employment by an insurance company authorized to insure boilers in Arkansas and proof of successful passage of the examination for boiler inspectors administered by the National Board of Boiler and Pressure Vessel Inspectors; and

iii. If an applicant is seeking a license as a boiler operator, proof of at least six (6) months experience.

3. Temporary and Provision License

a. The division shall issue a temporary and provisional license immediately upon receipt of the application, the required fee, and the documentation required under Rule 010.01- 008(R)(2)(a) and (b).

b. A temporary and provisional license shall be effective for at least 90 days or until the divisions makes a decision on the application, unless the division determines that the applicant does not meet the requirements in Rule 010.01-008(R)(2)(a)-(c), in which case the temporary and provisional license shall be revoked immediately.

c. An applicant may provide the rest of the documentation required above in order to receive a license, or the applicant may provide only the information necessary for the issuance of a temporary and provisional license.

4. License for a Person From a State that Does Not License Boiler Operators:

a. Required qualifications: An applicant from a state that does not license boiler operators shall meet the following requirements:

i. have six (6) months experience as a boiler operator; and

ii. pass the examination administered by the division.

b. Required documentation: An applicant for a boiler operator license shall submit a fully-executed application, the required fee, and the documentation described below to show that the applicant is sufficiently competent:

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- i. letter(s) from former employers verifying six (6) months experience as a boiler operator; and
- ii. a passing score on the examination administered by the division.